

City Council Introduction: **Monday**, May 7, 2001  
Public Hearing: **Monday**, May 14, 2001, at **1:30 p.m.**

Bill No. 01R-113

## **FACTSHEET**

**TITLE:** **SPECIAL PERMIT NO. 1665A**, an amendment to the **Van Dorn Meadows Community Unit Plan**, requested by Chateau Development, to add 17 dwelling units, for a total of 465 dwelling units, with a request to adjust the maximum height in the R-4 district, on property generally located at 72<sup>nd</sup> Street and Van Dorn Street.

**STAFF RECOMMENDATION:** Conditional approval, as revised.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 04/18/01  
Administrative Action: 04/18/01

**RECOMMENDATION:** Conditional approval, with amendments (8-0: Krieser, Carlson, Schwinn, Steward, Newman, Taylor, Duvall and Bayer voting 'yes'; Hunter absent).

### **FINDINGS OF FACT:**

1. The Planning staff recommendation of conditional approval, as revised, is based upon the "Analysis" as set forth on p.5-6.
2. The applicant's testimony is found on p.9-10. A revised site plan (p.016) was submitted at the public hearing and the applicant requested amendments to the conditions of approval: Amend Condition #1.1.8 to an allowable height of 38 or preferably 40 feet (rather than 35 feet); delete Condition #1.1.17 added by staff; amend Condition #1.1.16 to reflect approval of the site plan submitted on April 18, 2001; and the staff advised that Condition #1.1.5 and the existing Condition #1.1.16 were no longer necessary with the revised site plan.
3. Testimony in support on behalf of the Fox Hollow Homeowners Association and a coalition of Fox Hollow residents is found on p.10-11; however, their support is contingent upon there being no administrative amendments to this special permit.
4. The Planning Commission discussion with staff is found on p.11. The staff disagrees with the deletion of Condition #1.1.17 regarding the trail.
5. On April 18, 2001, the Planning Commission agreed with the staff recommendation of conditional approval, with amendments deleting Condition #1.1.5; amending Condition #1.1.8 to allow a height of 38 feet; amending Condition #1.1.16; and deleting Condition #1.1.17, as requested by the applicant. (See Minutes, p.12).
6. The site specific conditions of approval required to be completed prior to scheduling this application on the Council agenda have been submitted by the applicant and approved by the reviewing departments.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** April 30, 2001

**REVIEWED BY:** \_\_\_\_\_

**DATE:** April 30, 2001

**REFERENCE NUMBER:** FS\CC\FSSP1665A

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

**P.A.S.:** S.P. 1665A, Van Dorn Meadows C.U.P.

**DATE:** April 3, 2001

**\*\*As revised by Planning Commission, 4/18/01\*\***

### **PROPOSAL:**

1. 465 dwelling units consisting of:

|                                       |                    |
|---------------------------------------|--------------------|
| 11 single family lots,                | 11 dwelling units  |
| 6 four-plex buildings,                | 24 dwelling units  |
| 10 multiple family buildings,         | 300 dwelling units |
| 7 existing multiple family buildings, | 112 dwelling units |
| 9 two family buildings,               | 18 dwelling units  |

2. Adjustment to Section 27.15.080(a) to allow for a maximum of 40' height in the R-4 district.

### **GENERAL INFORMATION:**

**APPLICANT:** Gary Bredehoft, Olsson Associates, 1111 Lincoln Mall, Lincoln, NE 68508

**OWNER:** Chateau Development, Stefan Gaspar, 1025 N. 63rd Street, Lincoln, NE 68505

**LOCATION:** 72nd Street and Van Dorn Street

**LEGAL DESCRIPTION:** see attached

**SIZE:** 52.2 acres

**EXISTING ZONING:** R-3 and R-4

**EXISTING LAND USE:** Residential and vacant

### **SURROUNDING LAND USE AND ZONING:**

To the north across Van Dorn Street residential, zoned R-3;  
to the east single family, zoned R-1;  
to the south single family and park land, zoned R-1 and P;  
to the west shopping center, multiple family, and park land, zoned B-2, O-3, R-5 and P.

## COMPREHENSIVE PLAN SPECIFICATIONS:

The site is shown as Urban Residential on the Land Use Plan.

### Goal of Existing Urban Areas of the Urban Residential areas in the Comprehensive Plan:

“Preserve the character of rural and urban neighborhoods through maintenance of existing housing stock and encouragement of compatible design in new housing.” (Pg. 46)

### Goals of Trails in the Comprehensive Plan:

“Provide for the mobility needs of the community through a balanced and efficient system of roads, trails and public transportation alternatives.” (Pg. 117)

“Encourage and promote extensive use of non-motorized means of transportation by providing sidewalks, streets and a multi-use trail system within the community for commuting, recreation and other traveling.” (Pg. 117)

## HISTORY:

In the **1979** zoning update this property was converted from A-1 to R-3.

In **January 9, 1989** Van Dorn Meadows CUP Special Permit #1301 and Preliminary Plat were approved. This permit was for elderly, two-family and multi-family housing. 171 Dwelling Units were approved.

On **March 12, 1990** Special Permit #1356 to construct a recreational facility on property located on the northeast corner of 70<sup>nd</sup> and Holmes Park Road was denied.

In **June 1992** Preliminary P.U.D #91401 was approved. This PPUD approved 11 single-family dwellings, 42 two-family dwellings, 112 multi-family dwellings, a 329 unit retirement building, and 40,000 square feet of commercial use.

In **November 1992** Van Dorn Meadows P.U.D Change of Zone #2708. was approved. This PUD approved 11 single-family dwellings, 42 two-family dwellings, 112 multi-family dwellings, a 329 unit retirement building, 15,000 square feet of office use, and 25,000 square feet of retail use.

In **May of 1994** a Change of Zone #2823 from R-3 to R-5 on property located on the northeast corner of 70<sup>nd</sup> and Holmes Park Road was approved.

On **March 31, 1997** a Change of Zone #3041 from R-3 PUD to R-4 and R-3 PUD to R-3 was approved.

On **March 31, 1997** Change of Zone # 3042 changed the boundaries of the Special Permit and changed the zone of a portion of the area to the west of the CUP from R-3 to O-3 was approved.

On **March 31, 1997** Van Dorn Meadows 1<sup>st</sup> Addition CUP Special Permit #1665 and Preliminary Plat #96024 were approved. The Special Permit and Preliminary Plat superseded Special Permit #1301 and Preliminary Plat to allow for 448 dwelling units.

On **January 4, 1999** Administrative Amendment #98069 to revise the landscape plan and site the complex identification signs was approved.

In **March 2001** Administrative Amendment #00085 was superseded by the present application.

### **SPECIFIC INFORMATION:**

**UTILITIES:** Public utilities are available to serve the site.

**TOPOGRAPHY:** The land slopes to the drainage ditch and to the southwest.

### **TRAFFIC ANALYSIS:**

Van Dorn Street is identified in the Comprehensive Plan to be an Urban Collector Street. South 72<sup>nd</sup> Street has 60' right-of-way. Holmes Park Road has 80' right-of-way.

### **PUBLIC SERVICE:**

The closest fire station is located at 84th and South Streets.

### **REGIONAL ISSUES:**

This development will impact traffic on S72nd Street, Holmes Park Road and Van Dorn Street.

### **ENVIRONMENTAL CONCERNS:**

This site drains into Holmes Lake. Without careful controls on the site the lake could be impacted with silt and other pollutants.

### **AESTHETIC CONSIDERATIONS:**

The 4-plex units abut the R-1 residential district to the east of this site. A grade differential of approximately 10 feet separates the proposed 4-plex lots from the property line of the R-1 residential dwelling units. While a 40' setback is required and landscape screening is provided, the adjacent neighborhood to the east expressed concern about headlights in the rear of their dwelling units. Gary Bredehoft on behalf of the applicant has agreed to mitigate this issue by providing a fence in driveway areas of the 4-plex units.

The modification to the maximum allowable height will affect the adjacent housing by impacting the sense of scale experienced by the neighboring dwelling units. The applicant has indicated a pitched roof design rather than a flat roof in combination with a requested maximum height of 40 feet in order to accommodate ceiling heights of 9 feet.

Compared to the approved Special Permit for CUP, this proposed plan moves pavement on the east side of the site at the 4-plex units 40 feet closer to the adjacent dwelling units to the east. This impacts the site in terms of transition from single to multi-family and impacts the amount of green space between the two uses. The existing approved site plan addresses the need for a transition between the two housing types through green space. As proposed green space is reduced by 40 feet which brings the pavement 40 feet closer to the single-family dwellings adjacent to this property. Additionally, the interior driveway is placed 10 feet closer to the 4-plex units which eliminates green space that was provided in the current approved plan.

### **ALTERNATIVE USES:**

Develop the site with a trail connection to the southeast parking lot, include fence as a screen between the driving aisles of the 4-plex units and the R-1 residential units, and maintain a height restriction of 35 feet.

### **ANALYSIS:**

1. The request to change the maximum allowable height is out of scale for the area and does not preserve the character of the neighborhoods. The Comprehensive Plan states that neighborhoods should be preserved “through the maintenance of existing housing stock and encouragement of compatible design in new housing”. Single family housing to the east and two-family to the south will be impacted by and are not compatible with the additional height request. A pitched roof design and six foot grade differential increases the impact to the single and two-family dwellings adjacent and within this development.
2. This plan and the requested revisions to the landscape plan is acceptable to the Parks and Recreation Department.
3. The interior trail connects to the existing trail network, but is privately maintained. The interior trail was reduced and should be shown as originally approved. The trail both serves as a recreational component of the community unit plan and as a trail connection into the existing trail network. The Comprehensive Plan states that trails should “provide for the mobility needs of the community through a balanced and efficient system of roads, trails and public transportation alternatives”. The proposed modification to the trail is not efficient because another trail connection is located nearby the proposed connection. Additionally, the Comprehensive Plan states that trails should “encourage and promote extensive use of non-motorized means of transportation by providing sidewalks, streets and a multi-use trail system within the community for commuting, recreation and other traveling”. A connection to the southeast parking lot would help to

serve the 4-plex dwelling units. Since no sidewalks are provided for those units, a trail would help take the pedestrian and bike traffic off of the interior driveway and onto an alternate pedestrian route. The Design Standards state that “Adequate and appropriate recreational facilities shall be provided in the common open areas to serve the needs of the development and the anticipated occupants to fulfill the needs of occupants whether they are young, elderly, handicapped, etc. Such facilities shall be readily accessible from the dwelling units in the community unit plan”. This trail functions to take residents from their dwelling units to the open space areas without having to go through any parking lots.

4. This plan increases the number of dwelling units by 17, which remains within the allowable density calculation.

**STAFF RECOMMENDATION:**

Conditional Approval  
Denial to height adjustment to 40'

**CONDITIONS:**

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
  - 1.1 Revise the site plan to show:
    - 1.1.1 Corrected legal description to match boundary curve data
    - 1.1.2 Remove interior curve data because it is a driveway and not a private roadway.
    - 1.1.3 Correct allowable density calculation to show 467 total allowable units.
    - 1.1.4 Correct spelling errors of “Acrea” to “Acres” in Density Calculations.
    - 1.1.5 ~~Expand 4-Plex detail to show driveways, serving the garages. (\*\*Per Planning Commission, 4/18/01\*\*)~~
    - 1.1.6 Correct boundary data to match legal description.
    - 1.1.7 Show envelopes for ground signs on site plan or add note to plan that identifies that ground signs will be as allowed by the zoning ordinance.
    - 1.1.8 Correct height in “Development Land Uses” table to show maximum allowable height of 35 ~~38~~ feet. (\*\*Per Planning Commission, 4/18/01\*\*)

- 1.1.9 Add north arrow to vicinity map.
- 1.1.10 Remove Planning Commission approval certificate and add City Council approval certificate.
- 1.1.11 Revise Note #17 to clearly show "Dwelling Unit, Type, and Location".
- 1.1.12 Revise Note #11 to say "land area" instead of "existing plat".
- 1.1.13 Remove the typo "(G)" from the northeast apartment building.
- 1.1.14 Show the location of the dumpsters in an enclosure not in parking stalls of the parking lot.
- 1.1.15 Add a note stating that any relocation of existing facilities will be at the owner/developer's expense.
- 1.1.16 ~~Add a fence along the east side of all driveways serving the individual 4-plex garages.~~ Revise the site plan in accordance with the site plan submitted at Public Hearing before the Planning Commission on 4/18/01. **(\*\*Per Planning Commission, 4/18/01\*\*)**
- ~~1.1.17 Revise the site plan to show the trail as currently approved by Special Permit No. 1665. (\*\*Per Planning Commission, 4/18/01\*\*)~~

2.1 Revise the landscape plan to show:

- 2.1.1 Remove references to administrative amendment on the landscape plan.
- 2.1.2 Note on the landscape plan that proposed street trees are to be located no closer than 5 feet from trail/sidewalk and shrubs no closer than 3 feet, and shall be planted on private property.
- 2.1.3 It is recommended that Scotch Pine not be planted due to Pine Wilt Disease. Substitute with Norway Spruce, Black Hills Spruce, or Limber Pine (Vanderwolf's Pyramid).

2. This approval permits:

465 dwelling units

General:

3. Before receiving building permits:

- 3.1 The permittee shall have submitted a revised and reproducible final plan and 5 copies to the Planning Department.
- 3.2 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

- 4. The following conditions are applicable to all requests:
  - 4.1 Before occupying the new dwelling units all development and construction shall have been completed in compliance with the approved plans.
  - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
  - 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 4.5 The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.
- 5. The site plan as approved with this resolution voids and supersedes all previously approved site plans.

Prepared by:

Becky Horner, Planner



**SPECIAL PERMIT NO. 1665A,  
AMENDMENT TO THE  
VAN DORN MEADOWS ADDITION  
COMMUNITY UNIT PLAN**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

April 18, 2001

Members present: Krieser, Carlson, Schwinn, Steward, Newman, Taylor, Duvall and Bayer; Hunter absent.

Planning staff recommendation: Conditional approval.

Becky Horner of Planning staff submitted two letters in opposition and a request to revise the staff recommendation to add Condition #1.1.17, "Revise the site plan to show the trail as currently approved by Special Permit No. 1665."

Proponents

**1. Mark Hunzeker** appeared on behalf of **Chateau Development**. This is a proposal to amend the community unit plan that presently is approved on the property. The pre-existing approval allowed for two very large structures and seven 4-plex structures along the east property line. The revised plan worked out with the neighbors will have six 4-plex structures which will be revised somewhat from what is in front of the Commission.

Hunzeker advised that the developer has had at least three different meetings with the neighbors. They mailed notice to all property owners on both sides of 74<sup>th</sup> Street and the townhouse owners on the north side of Sherman Street. There were no objections to the proposal at that meeting. There were some people unable to attend who did have concerns and they have had two additional meetings with those neighbors whom Hunzeker believes are satisfied.

There was concern expressed relative to the plan before the Commission having to do with the fact that they had shown driveways and parking going back between the four-plex dwellings all the way to the 40' setback along the east property line. In response to an objection from homeowners on the east side, Hunzeker submitted a revised site plan to eliminate the drives going down between the buildings with garages instead along the internal drive with parking in front of the building so that there no longer is the situation where driveways would penetrate between the buildings and shine lights to the east. The buildings have been rearranged and spread out, maintaining the previously approved 40' setback for the buildings and 80' from the property line to any parking areas so that we have a substantial green space between the property line on the east and the interior portion of the buildings. It substantially improves the site plan. This also amends the way the parking is utilized.

Hunzeker acknowledged that this amendment does increase the number of units slightly because the grade drops dramatically going south on the site. It is vastly preferable to have units in the

lower level of the buildings that would walk out at grade rather than having retaining walls to make the grades work. This is where the additional units are coming in.

Hunzeker requested a height waiver to go to 40' instead of 35' because they want these units to be fairly upscale with 9' ceilings and pitched rather than flat roofs. 40' is more than they probably have to have and they could probably get by with 38' to allow a good pitch on the roofs so that they fit in.

With regard to Condition #1.1.17 added by the staff today, Hunzeker explained that the site plan shows the bike path stopping sooner, but he believes that it still serves the property adequately and it is where the neighbors prefer to see it stop. They can build it either way, but Hunzeker requested that Condition #1.1.17 not be added. There is more than adequate incentive for people not necessarily entitled to use that privately owned outlot to use it without permission, and the developer and neighbors would like not to have that bike path penetrate all the way into the outlot but stopped at the first parking lot.

Hunzeker requested to amend Condition #1.1.8 regarding the building height from 35' to at least 38', preferably 40'; and to amend Condition #1.1.16 to "revise the site plan in accordance with the site plan proposed at today's hearing". The existing Condition #1.1.16 requires a fence, but Hunzeker believes there is no need for the fence because they are no longer parking between the buildings with the revised site plan submitted today.

Carlson confirmed that the outlot would be to the south. Hunzeker concurred. Carlson asked Hunzeker to speak further about the undesired trespass issue. Hunzeker noted that there is a row of townhouses on the east side of the outlot and those townhouses, along with Chateau Development, are responsible for maintenance of that outlot and have access and the right to use it. Their concern is that it has a pond on it and is very attractive for people who don't necessarily have a right to use it to come onto the property and trespass and potentially get injured or have problems in the pond. There are a lot of insurance issues as well as privacy issues that the homeowners are concerned about. They would prefer that the bike path stop where proposed. Hunzeker believes there is sufficient access in two other locations.

Steward referred to the bike path and expressed concern about the height of the terrain. He does not think that it is a comfortable nor acceptable distance for elevation change on a bike path. The previous location is in a flatter gradient. Don Day with Olsson Associates stated that they can make the bike path work with the grades where it is shown on the revised site plan. If it went as far as previously approved, it would not be possible with the grade differences. As shown, they can shift the alignment slightly to make it work with the grades. The previous submittal showed a road towards the outlot that was lower, but by abutting buildings up along that line, it is higher.

With regard to the number of units, Hunzeker stated that there are currently 448 units approved. This application adds 17, by changing the building envelopes, increasing the number of structures and changing the facade.

**2. Lowell Berg**, 3121 So. 74<sup>th</sup> Street, appeared on behalf of the **Fox Hollow Homeowners Association** and a coalition of Fox Hollow residents who do not belong to the association, in support of the plan presented today. Their initial concerns were transitional--the area of the four-plexes was a transition between the Fox Hollow single family homes and the apartments. The plan as originally

submitted had a hard edge to it. In working with the applicant, the proposed plan is more consistent with what was approved in 1997 with the four-plexes spread out and parking to the west of the buildings. Berg stated that their support for the project will erode if there are significant changes to this plan by any administrative amendment. This plan includes the spacing between the four-plexes, the minimum of 80' to the parking and the parking on the west of the buildings.

Considering the land topography and this new arrangement of breaking up the major apartment blocks and the recommendation for pitched roofs, Steward asked Mr. Berg whether the neighbors are comfortable with the higher height from a neighborhood perspective. Berg stated that the neighbors would not oppose if done under the way described, which includes the stipulation for sloped roof with eave height of 30' and the height of the units being 37'. Berg believes the equivalent scale on a sloped roof would be acceptable so they are not opposed to the additional height. There is a significant slope difference from this development to the Fox Hollow development.

There was no testimony in opposition.

#### Staff questions

Steward inquired whether the staff is comfortable with the proposed revisions to the conditions requested by the applicant. Horner stated that the staff has reviewed the revised proposal and is comfortable, with the exception of the trail. The staff is also comfortable with the 38' height rather than 40'. She also clarified that Condition #1.1.16 is obsolete now that they have resubmitted as well as Condition #1.1.5, which dealt with the four-plex detail.

With regard to the trail, Horner reminded the Commission that the approved plan is a community unit plan of which an essential function is to have a recreational component. This plan was approved with that trail as a component of the recreational part of the community unit plan. The staff believes that without the extension of the trail it does not equally serve all of the units, and there are no sidewalks to the four-plex units. The purpose of the trail is to get the residents to the outlot for passive recreational purposes.

Carlson confirmed with the applicant that it would take substantial modification to the site plan to accomplish the staff recommendation on the trail. It is Hunzeker's understanding that the proposed grades would make it more difficult to make that work. The applicant's reason for stopping the trail, more than anything, is that the neighbors who use that outlot prefer that it not go that far into the outlot. We think it serves the entire project at its proposed location, the same as the clubhouse and pool will serve the entire project even though they are at the extreme west end of the project.

Steward noted that the trail does penetrate a portion of the outlot as proposed. Hunzeker believes that it penetrates the outlot probably by about 300', so it is a pretty good stretch into that off of 72<sup>nd</sup> Street.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

April 18, 2001

Schwinn moved approval, with conditions, with amendments deleting Condition #1.1.5; amending Condition #1.1.16 to approve the site plan as submitted at the public hearing; deleting Condition #1.1.17 regarding the trail; and amending Condition #1.1.8 to 38', seconded by Steward.

Schwinn noted that the outlot improvements have been in place four or five years, which is a very positive addition to this neighborhood. The owners that have the right to that outlot can walk through there. The bike path comes out of the development and can hook up to the Billy Wolf bike path paid for by the Fox Hollow neighborhood. The recreational facilities in Holmes Park are about two blocks away. In consideration that the developer already owns the corner at South 72nd and Van Dorn and it has always been pleasant, Schwinn does not see that they are going to change what they do. They have done a good job of being very good neighbors.

Carlson noted that the four-plex residents are going to walk through the parking lot to the outlot so he does not believe the bike trail is an issue.

Bayer asked the applicant and staff to remember that the neighbor represented that there will be no administrative amendments.

Motion for conditional approval, with amendments, carried 8-0: Krieser, Carlson, Schwinn, Steward, Newman, Taylor, Duvall and Bayer voting 'yes'; Hunter absent.